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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,785	08/03/2001	Thomas Lopatic	14616	7412

7590 10/31/2007

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EXAMINER	
BAYAT, BRADLEY B	
ART UNIT	**PAPER NUMBER**
3621	

MAIL DATE	DELIVERY MODE
10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/921,785	LOPATIC, THOMAS	
	Examiner	Art Unit	
	Bradley B. Bayat	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *76-98* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *76-98* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

This communication is in response to remarks and amendment filed on July 19, 2007.

- Claims 76 and 98 have been amended.
- Claims 1-75 were previously cancelled.
- Thus, claims 76-98 remain pending.

Response to Arguments

Applicant's arguments with respect to newly amended claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 76-98 are rejected under 35 U.S.C. 102(e) as being anticipated by Krishnan et al. (hereinafter Krishnan), US 6,141,698.

76, 98. A method/processor-readable medium of automatically modifying an executable file comprising the steps of: identifying one or more instructions and/or one or more variables within the executable file; inserting data and/or one or more instructions within said executable file

before or after said identified one or more instructions and/or one or more variables, whereby any inserted instructions implements license verification code and any inserted data is license related; and relocating all instructions and all variables within said executable file affected by the insertion, and adjusting all to reflect the relocating of the affected instructions and variables [see summary of the invention; 3:55-6:27, injection mechanism modifying the behavior of existing executable code].

77. The method according to claim 76, characterized in that at least part of the data and/or the one or more instructions inserted within the executable file is adapted to enable automatic testing of the integrity of at least one part of the executable file [4:37-55, verifying checksums, see Fig 9 and associated text].

78. The method according to claim 76, characterized in that the identification of the one or more instructions and/or one or more variables is based on information obtained from at least one of an initial, intermediate and final state of the creation process resulting in the executable file [Figs 11, 14 and associated text; columns 11-12].

79. The method according to claim 78, characterized in that the information is obtained from object files created in the process of generating the executable file from a source code file [columns 5-8, info obtained from blocks as also described in the accompanying figures and associated text].

80. The method according to claim 78, characterized in that the information is obtained from debug information created in the process of generating the executable file from a source code file [columns 11-12, flags/modes].

81. The method according to claim 78, characterized in that the information is obtained from relocation information created in the process of generating the executable file from a source code file [Fig 11 and 14 and associated text, location information].

82. The method according to claim 76, characterized in that the data and/or the one or more instructions inserted in the executable file is adapted to enable the identification of the licensee of the software product comprising the executable file [columns 7-8, license information].

83. The method according to claim 76, characterized in that the data and/or the one or more instructions inserted in the executable file is adapted to enable an identification of the executable file itself [Fig 3 and 9 and associated text, location/ID executable file].

84. The method according to claim 76, characterized in that the data and/or the one or more instructions inserted in the executable file is adapted to enable an identification of the master file from which the executable file forms a copy before being modified [8:41-65, 13:18-38, also see main entry discussion in spec and claims]

85. The method according to claim 76, characterized in that the one or more instructions inserted in the executable file is adapted to create a query to an execution control software program for a permission to run the executable file, and to control the execution of the executable file in accordance to the permission being granted or denied [Col. 2-3, Fig 11 and associated text, col. 11-13, determining whether product is licensed].

86. The method according to claim 76, characterized in that the one or more instructions inserted in the executable file is adapted to monitor changes to the executable file and to create a message indicating an infringement of the integrity of the executable file upon a change not being verified [column 12, discussion of flag].

87. The method according to claim 85, characterized in that granting the permission to run the executable file comprises validation information in form of a request ticket [determining validation of key, column 7].

88. The method according to claim 85, characterized in that the permission to run the executable file is formed by a runtime ticket [4:1-55].

89. The method according to claim 85, characterized in that the one or more instructions inserted in the executable file is adapted to receive a log-off ticket and to insert the log-off ticket within the executable file [columns 1-2, turning off features].

90. The method according to claim 89, characterized in that the one or more instructions inserted in the executable file is further adapted to return the log-off ticket to the execution control software program upon terminating the execution of the executable file [Fig 4, adapted to terminate application].

91. The method according to claim 87, characterized in that the one or more instructions inserted in the executable file comprises verification code for verifying the validity of at least one type of ticket [Fig 9, verification code].

92. The method according to claim 85, characterized in that the one or more instructions inserted in one or more instructions of the executable file is adapted to increment a counter related to the respective instruction each time said instruction of the executable file is involved [col. 11-12, counter/flag mechanism].

93. The method according to claim 92, characterized in that said one or more instructions inserted in one or more instructions of the executable file is further adapted to send data concerning the value of the counter to the execution control software program upon terminating the execution of the executable file [Fig 14 and associated text, col. 4-6, import data].

94. The method according to claim 87, characterized in that the one or more instructions inserted in the executable file comprises a provision of means for an execution of code received from the execution control software program [col. 1-3 and 9, means of injection/execution].

95. 'The method according to claim 94, characterized in that the one or more instructions inserted in the executable file comprises a provision of means for returning a result of the execution of said code to said execution control software program [col. 11-14, checksum result].

96. The method according to claim 76, characterized by at least one of changing an arrangement of at least two subroutines and changing the arrangement of at least two variables within the executable file [col. 11-15, blocks/determinations routines].

97. The method according to claim 96, characterized in that the changing of the arrangement of the at least two subroutines and the changing of the at least two variables is performed by a pseudo-random permutation [12:48-13:17].

Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Conclusion

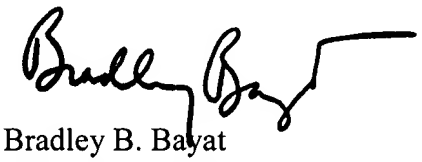
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The examiner can normally be reached on Tuesday-Friday 8 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Bradley B. Bayat
Primary Examiner
Art Unit 3621